

ASSOCIATION OF BAY AREA GOVERNMENTS

Representing City and County Governments of the San Francisco Bay Area



ABAG

Date: March 9, 2016
To: ABAG Executive Board
From: Kenneth Moy
Legal Counsel
Subject: **375 Beale Street**

Summary

The Association of Bay Area Governments (ABAG) will be exchanging its condominium interest at 101 8th Street for a condominium to be created at 375 Beale Street, San Francisco. For the reasons stated below, ABAG may need to execute and deliver certain real estate documents before the May Executive Board meeting. I respectfully request that the Executive Board delegate to the Administrative Committee the power to authorize execution and delivery of such documents.

Background and Discussion: In 2012, policymakers from ABAG and BAHA negotiated the terms of a Memorandum of Understanding dated February 13, 2013 (MOU), attached, under which ABAG would relocate its headquarters to 375 Beale Street (375 Beale). The following are the salient provisions of the MOU¹:

- (1) ABAG exchanges its condominium interest at 101 8th Street for a condominium interest to be created at 375 Beale Street (ABAG Unit);
- (2) BAHA delivers the ABAG Unit in “turnkey” condition and designed to the same standards as the space to be occupied by MTC and the Bay Area Toll Authority (“BATA”);
- (3) BAHA pays for ABAG’s moving costs;
- (4) BAHA will execute space plans providing for basic functionalities such as the number of offices/workstations and storage space as well as access to common facilities such as conference rooms, IT facilities, pantries, etc.;
- (5) ABAG passes through \$4.2 Million from MTC to BAHA for capital tenant improvements in the ABAG Unit;
- (6) ABAG’s share of the annual Common Expenses at 375 Beale Street plus ABAG’s annual costs for utilities and janitorial services for ABAG Unit shall not exceed \$314,000

¹ A provision that ABAG pays its share of seismic retrofit costs at 101 8th Street has been satisfied.

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adjusted annually for inflation as measured by the CPI for San Francisco – Oakland – All Urban Consumers, commencing on the date ABAG moves into the ABAG unit;

- (7) Subject to adequate demand, shuttle service from the Embarcadero BART station to 375 Beale will be provided for all public agency board and committee meetings; and
- (8) BAHA will provide an on-site food market/deli and coffee shop on the ground floor space of 375 Beale.

In addition, draft versions of the Declaration of Covenants, Conditions and Restrictions (CC&Rs) for 375 Beale Street and the Purchase and Sale Agreement and Joint Escrow Instructions (PSA) were attached to the MOU. Since then, ABAG and BAHA have been refining the PSA. ABAG, BAAQMD and BAHA have been refining the CC&Rs

For the purposes of the real estate transaction, these are the current critical aspects of the project:

- move-in date will be based on issuance of a Permit of Occupancy and the time needed to mobilize the moving firm (anticipated move-in in May);
- the condominium process for 375 Beale will likely be completed in late Summer or early Fall; and
- BAHA to lease the ABAG Unit to ABAG from the move-in date until the real estate exchange is completed with no base rent but with ABAG paying its share of Common Expenses (subject to the cap described above).

Recommended Action

The CC&Rs, PSA and lease are still under negotiation. I anticipate that ABAG will need to execute one or more of these documents before the May meeting of the Executive Board. In order to stay on the proposed/anticipated schedule, I am requesting that the Executive Board delegate to the Administrative Committee, the power to authorize execution and delivery of all documents reasonably necessary to effectuate the early occupancy of the ABAG Unit under the lease and the exchange of ABAG's condominium interest at 101 8th Street for the ABAG Unit, including but not limited to the CC&R's, PSA and the lease between ABAG and BAHA.

Attachment

MOU between BAHA and ABAG